

SPECIAL CIVIL APPLICATIONS NO.549 OF 1996
WITH
SPECIAL CIVIL APPLICATIONS 550 & 551 OF 1996

Date of decision: 2-5-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.K. KESHOTE,J
(2-5-1996)

Mr. B. P. Tanna for the petitioners

Mr. D.A. Bambania for respondent No.1

Mr. R.J. Oza for respondent No.2

in all the petitions.

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Rule.

Mr. D.A. Bambania waives services of rule on behalf of respondent No.1 in all the petitions. Mr. R. J. Oza waives service of rule on behalf of respondent No.2 in all the petitions. With the consent of parties the petitions are taken up for final hearing today. As all the three petitions arise out of same set of facts, they are being disposed of by this common order.

Heard the learned counsel for the parties.

2. The Gujarat Public Service Commission (GPSC) invited applications for various posts of Class I and Class II services. All the three petitioners applied in response to the advertisement. They were called for written tests vide letter dated 2-12-1991 and on their success in the first written test they were again called for the second written test vide letter dated 5-7-1993. The petitioners passed both the written tests and thereafter they were called for viva voce. GPSC thereafter prepared select list of Class I as well Class II services. These lists were published by notification dated 19-5-1994. Petitioner in special civil application No.549 of 1996 has been placed at serial No.1 in the waiting list of both Class I and Class II services. Petitioner in special civil application No.550 of 1996 has stands at serial No.4 in both the waiting lists, and petitioner of special civil application No.551 of 1996 stands at serial No.2 in both the waiting lists.

3. The petitioners have come up with the case that the Government had resolved that so long as new select list is not prepared the old list will continue to operate. The petitioners pray that directions be given to the respondents to appoint them in Class I posts of Deputy Collector or Superintendent of Prohibition or District Registrar of Cooperative Societies. This prayer has been made on the ground that the posts are available as the persons from list No.1 have not joined. Learned counsel for the respondents

contends that requisition has already been sent for three posts of Class I service - two for general category and one for reserved category candidates - by respondent No.1 to respondent No.2. In response to the aforesaid requisition respondent No.2 has already sent the names of petitioner of special civil application No.549 of 1996 (M. A. Gandhi) and petitioner of special civil application No.551 of 1996 (A. K. Bhatt). Mr. D. A.Bambania, learned counsel for respondent No.1 submits that the names of these two persons (petitioners) are under consideration before the State Government for their appointment and appropriate orders will be passed within reasonable time.

4. Mr. B.P.Tanna, learned counsel for petitioner of special civil application No.550 of 1996 contended that further posts are available, but no requisition has been sent by respondent No.1 to respondent No.2. The posts were made available even earlier to the date of publication of the fresh select list. I do not consider it proper to give any finding on the questions raised by the learned counsel for the petitioner. It is a case where respondent No.1 should have considered the matter and made appropriate orders. In case, for any reason, petitioners whose names are already sponsored by the GPSC to the State Government could not be given appointment, then the reasons should be given, and similar is the case of petitioner who is making grievance that despite availability of posts requisition has not been sent.

5. In the result all these three writ petitions are disposed of with the direction to respondent No.1 to consider the case of the two petitioners whose names have already been sponsored by GPSC for appointment to Class I posts and appropriate orders may be passed within a period of one month from the date of receipt of certified copy of this judgment. In case, for any reason or reasons, respondent No.1 considers that these two petitioners, namely, petitioner of special civil application No.549 of 1996 and petitioner of special civil application No.551 of 1996, cannot be given appointment, a reasoned order shall be passed and copy of the same shall be sent to each petitioner by registered post. So far as the petitioner of special civil application No.550 of 1996 is concerned, respondent No.1 may consider his case also and pass appropriate order. In case, for any reason or reasons, respondent No.1 considers that no requisition is to be sent for calling for the name of the petitioner, a reasoned order maybe passed and a copy thereof shall be sent to him by registered post. In case respondent No.1 considers that the petitioners should be given appointment, then necessary orders maybe passed within a period of fifteen days thereafter. Rule

made absolute in the aforesaid terms. No order as to costs.

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